

REMARKS

Claims 12, 14-17, 19, and 20 remain in this application. Claim 21 was added. No new matter was added to the application and support for Claim 21 may be found on page 4, lines 16-17 of the application.

Claims 14-17, 19, and 20 were rejected under 35 U.S.C. § 112, second paragraph. Upon entry of the foregoing amendment, this rejection has been satisfied and should be withdrawn.

Claims 12, 16 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fraim et al. The PTO asserts that "[a]s to claim 12, Fraim et al. teach a method for detecting leaks in a sealed package **100** which comprises ... closing the chamber and reducing the pressure in the chamber 300 to a level below the internal pressure of the package 100... *citations omitted*" Applicants traverse this rejection for the following reason. Fraim et al. teach increasing the pressure in a closed chamber to produce a concave membrane followed by reducing the pressure in the same closed chamber and measuring at what pressure the transitions from concave to a convex membrane occurs. The method of of Claim 12 teaches detecting leaks by reducing pressure in a closed chamber followed the determination of whether a switch is opened or closed.

Specifically, Fraim et al.'s teach that leaks can be measured if one "elevate [s] the pressure in the chambers **300** to about 15 psi. When the pressure is applied, the displacement of the membrane will be concave. After maintaining the elevated pressure for a short time (e.g.) 35 seconds) valve **315** is adjusted to apply a vacuum ... when the vacuum is the defection of the membranes will be convex. Immediately after the desired

level of vacuum is obtained, valve **315** is return to the position in which pressure source **320** applied pressure to the chamber. When the pressure in the chamber increases to a sufficient level, the membranes of a sealed container will move a convex to a concave position. The sensors **340** measure displacement of the membranes during the pressure variation cycle." See Fraim et al. col. 6, lns. 28-43. See also, col. 5, lns. 18-33 and Fig. 2. Applicants' method of detecting leaks in at least one sealed contact lens package is different.

Applicants detect leaks in at least one sealed contact lens package by "loading at least one sealed contact lens package to a chamber ... closing said chamber and reducing the pressure in said chamber to a level below the internal pressure of said at least one contact lens package and its contents; and determining whether a mechanical switch is opened or closed. A method of leak detection that requires the elevation of pressure, followed by maintaining the elevated pressure, further followed by reducing pressure, is not the same as a method that reduces pressure below atmospheric pressure and checks for leaks. See Fraim et al. col. 6, lns. 28-43. See also, col. 5, lns. 18-33 and Fig. 2. Further, there is no suggestion in Fraim et al. that leaks could be detected by reducing pressure alone.

Further the Office Action asserted that "it would have been obvious to one of ordinary skill in the art to use the method taught by Fraim et al. to test contact lens packages because... it is common and well-known to test the seals of contact lens packages in order to ensure that bacterial contamination of the contents does not occur." This assertion was supported by the quoted text of application. Applicants

submit that it is known to test contact lens packages for leaks, but the question is not, does one test for leaks, but how. The sentence quoted in the Office Action precedes a sentence that describes a test method that requires the destruction of the product and as such is not optimal.

As established above, Applicants' method of detecting leaks in contact lens packages is not taught or suggested by Fraim et al. Therefore, if one of ordinary skill reviewed Fraim et al., they would find no motivation to practice the Applicants' claimed invention.

Still further, with respect to claims 16 and 17, the Office Action asserted that "it would have been obvious to one of ordinary skill in the art to complete the method in less than ... any relatively short period of time..." As established above Applicants' method of detecting leaks in contact lens packages is not taught or suggested by Fraim et al. Therefore, if one of ordinary skill reviewed Fraim et al., they would find no motivation to practice the Applicants' invention as claimed by claims 16 and 17. Applicants respectfully submit that the rejection of claims 12, 16 and 17 under 35 U.S.C. § 103(a) in view of Fraim et al. have been overcome and should be withdrawn.

Claims 14, 19, and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fraim et al. in view of Stauffer et al. The Office Action asserted that "Fraim et al. teach all of the limitation as set forth above but do not teach reducing the pressure to -70 kPA, -50 kPA, or anywhere in between. It would have been obvious to use the pressures taught by Stauffer, or any pressures substantially less than the

pressure inside the sealed packages, with the method of Fraim..."

Applicants traverse this rejection for the following reasons.

As stated above, Fraim et al. does not teach Applicants' claimed invention for the reasons stated above. Stauffer does not or suggest enclosing the article to be tested in a chamber.

Therefore, one of ordinary skill would not find Applicants' claimed invention obvious in view of Fraim et al. and Stauffer et al. Applicants respectfully submit that the rejection of claims 14, 19 and 20 under 35 U.S.C. § 103(a) in view of Fraim et al. and Stauffer et al. have been overcome and should be withdrawn.

Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Fraim et al. in view of Perhach et al. The PTO asserted that Fraim et al. teach all of the limitations as set forth above but do not teach the head of the mechanical switch being spring loaded against the surface of the deformable closure when the chamber is closed under atmospheric pressure. It would have been obvious to one of ordinary skill in the art to employ the teachings of Perhach with the method and apparatus of Fraim." Applicants traverse this rejection for the following reason.

As stated above, Fraim et al. does not teach Applicants' method of detecting leaks in contact lens. Even though Perhach et al. teach spring loading compressed between two bearing surfaces, it does not suggest Applicants' claimed invention. Therefore, one of ordinary skill would not find Applicants' invention obvious in view of Fraim et al. and Perhach et al. Applicants respectfully submit that the rejection of claim 15 under 35 U.S.C. § 103(a) in view of Fraim et al. and Perhach et al. has been overcome and should be withdrawn.

Serial No. 10/800,903

Applicants respectfully submit that all rejections have been overcome and solicit a Notice of Allowance for all pending claims. If the Examiner believes that a telephone interview would expedite the prosecution of this case, the Examiner is invited to call the undersigned agent.

Respectfully submitted,

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